

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 514

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, RELATING TO THE REGULATION OF FIREARMS; AMENDING CHAPTER 9.50 OF THE BURIEN MUNICIPAL CODE TO CONFORM TO STATE LAW; PROVIDING FOR SEVERABILITY; AND, ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the state legislature has, pursuant to RCW 9.41.290, determined that it shall fully occupy and preempt the entire field of regulation of firearms, and

WHEREAS such preemption includes the registration, licensing, possession, purchase, sale, acquisition, transfer, discharge, and transportation of firearms, or any other element relating to firearms or parts thereof, and

WHEREAS, the City may enact only those laws and ordinances relating to firearms that are specifically authorized by and consistent with state law and any local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such city, town, county, or municipality; and

WHEREAS, the City has codified its firearms regulations at Chapter 9.50 of the Burien Municipal Code; and

WHEREAS, upon review of Chapter 9.50, several provisions have been identified that may be inconsistent with state law and therefore should be amended to conform to Chapter 9.41 RCW; and

WHEREAS it is in the best interest of the public health, safety and welfare that City firearms regulations are made to conform to state law;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Repeal of 9.50.210 BMC (Weapons prohibited on liquor sale premises). Section 9.50.210 of the Burien Municipal Code is hereby repealed in its entirety.

Section 2. Amending 9.50.220 BMC (Firearms Prohibited in Certain places – Exceptions – Penalty). Section 9.50.220 of the Burien Municipal Code is hereby amended (legislative revision marks) to read as follows:

9.50.220 Firearms prohibited in certain places – Exceptions – Penalty.

(1) It is unlawful for any person to enter the following places when he or she knowingly possesses or knowingly has under his or her control a firearm;

(a) The restricted access areas of a jail, or of a law enforcement facility, or any place used for the confinement of a person:

(i) Arrested for, charged with, or convicted of an offense;

(ii) Charged with being or adjudicated to be a juvenile offender as defined in RCW 13.40.020;

(iii) Held for extradition or as a material witness; or

(iv) Otherwise confined pursuant to an order of a court, except an order under Chapter 13.32A or 13.34 RCW.

Restricted access areas do not include common areas of egress or ingress open to the general public.

Exception. This subsection does not apply to a person licensed pursuant to RCW 9.41.070 who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises or checks his or her firearm. The person may reclaim the firearms upon leaving but must immediately and directly depart from the place or facility.

(b) A courtroom or judge's chamber, while either is being used for any judicial proceeding. This does not include common areas of egress and ingress of the courthouse.

Exception. This subsection does not apply to a judge or court employee or to any person licensed under RCW 9.41.070 who, before entering the restricted area, directly and promptly proceeds to the court administrator or the administrator's designee and obtains written permission to possess the firearm.

(c) The restricted access areas of a public mental health facility certified by the department of social and health services for inpatient hospital care and state

institutions for the care of the mentally ill, excluding those facilities solely for evaluation and treatment. Restricted areas do not include common areas of egress and ingress open to the general public.

Exception. This subsection does not apply to any administrator or employee of the facility or to any person who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises.

(d) That portion of an establishment classified by the state liquor control board as off-limits to persons under 21 years of age.

Exception. This subsection does not apply to the proprietor of the premises or his or her employee while engaged in their employment.

~~(e) The council chambers of the city council.~~

(2) The provisions of this section do not apply to:

(a) A person engaged in military activities sponsored by the federal or state governments while engaged in official duties;

(b) Law enforcement personnel, except that this subsection (2)(e) of this section does apply to a law enforcement officer who is present at a courthouse building as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 26.50.010; or

(c) Security personnel while engaged in official duties;

(3) Any person violating this section is guilty of a misdemeanor.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 20TH DAY OF JULY, 2009, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 20TH DAY OF JULY, 2009.

CITY OF BURIEN

/s/ Sue Blazak, Acting Mayor

ATTEST/AUTHENTICATED:

/s/ Monica Lusk, City Clerk

Approved as to form:

/s/ Christopher Bacha, Interim City Attorney
Kenyon Disend, PLLC

Filed with the City Clerk: May 27, 2009

Passed by the City Council: July 20, 2009

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